

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 323

Introduced by Senator Oropeza

(Coauthor: Senator Florez)

(Coauthors: Assembly Members Bill Berryhill, Blumenfield, Duvall, Jeffries, *Ma*, Price, and ~~Torlakson~~ *Torlakson, and Torrico*)

February 25, 2009

An act to amend Section 69984 of the Education Code, and to add and repeal Chapter 3.5 (commencing with Section 18900) of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 323, as amended, Oropeza. Taxation: deposits: qualified tuition programs.

The Golden State Scholarshare Trust Act establishes the Golden State Scholarshare Trust, under the administration of the Scholarshare Investment Board, to provide financial aid for postsecondary education costs of participating students. The act requires the board to segregate moneys received by the trust into 2 funds, one of which is the administrative fund. Existing law requires the funds in the administrative fund to be available for expenditure, upon appropriation by the Legislature, for specified purposes.

This bill would expand the purpose for which funds in the administrative fund can be expended, to include reimbursement of the Franchise Tax Board's actual cost of implementing and maintaining a specified designation on the form the of return.

The Personal Income Tax Law imposes taxes on taxable income which are administered by the Franchise Tax Board. Existing law

authorizes taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would, until December 31, 2014, authorize a taxpayer to designate on his or her tax return that a contribution in excess of tax liability, as specified, be deposited by the Franchise Tax Board into a qualified tuition program account, as specified. This bill would require the Franchise Tax Board to revise the form of the return to include the necessary information that will allow a taxpayer to make this designation, as provided. This bill would require the Scholarshare Investment Board to reimburse the Franchise Tax Board for the actual cost of implementing and maintaining this designation on the form of the return, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 69984 of the Education Code is amended
2 to read:

3 69984. (a) (1) The board shall segregate moneys received by
4 the Scholarshare trust into two funds, which shall be identified as
5 the program fund and the administrative fund. Notwithstanding
6 Section 13340 of the Government Code, the program fund is hereby
7 continuously appropriated, without regard to fiscal years, to the
8 board for the purposes of this article. Funds in the administrative
9 fund shall be available for expenditure, upon appropriation, for
10 the purposes specified in this article and in Chapter 3.5
11 (commencing with Section 18900) of Part 10.2 of Division 2 of
12 the Revenue and Taxation Code.

13 (2) (A) The board shall separately account for any moneys
14 received by an entity exempt from taxation under Section 501(c)(3)
15 of the Internal Revenue Code or a state or local government agency,
16 depositing the money for the benefit of a beneficiary to be named
17 later pursuant to the operation of a bona fide scholarship program.

18 (B) There is hereby created the Scholarshare Investment Board,
19 that consists of the Treasurer, the Director of Finance, the Secretary
20 of Education, a member of the Student Aid Commission appointed
21 by the Governor, a member of the public appointed by the
22 Governor, a representative from a California public institution of
23 higher education appointed by the Senate Committee on Rules,

1 and a representative from a California independent college or
2 university or a state-approved college, university, or
3 vocational/technical school appointed by the Speaker of the
4 Assembly. The Treasurer shall serve as chair of the board. The
5 board shall annually prepare and adopt a written statement of
6 investment policy. The board shall consider the statement of
7 investment policy and any changes in the investment policy at a
8 public hearing. The board shall approve the investment
9 management entity or entities consistent with subparagraph (D).

10 (C) Not later than 30 days after the close of each month, the
11 investment manager shall place on file for public inspection during
12 business hours a report with respect to investment performance.
13 The investment manager shall report the following information,
14 to the extent applicable, to the board within 30 days following the
15 end of each month:

16 (i) The type of investment, name of the issuer, date of maturity,
17 par and dollar amount invested in each security, investment, and
18 money within the program fund.

19 (ii) The weighted average maturity of the investments within
20 the program fund.

21 (iii) Any amounts in the program fund that are under the
22 management of an investment manager.

23 (iv) The market value as of the date of the report and the source
24 of this valuation for any security within the program fund.

25 (v) A description of the compliance with the statement of
26 investment policy.

27 (D) Moneys in the program fund may be invested or reinvested
28 by the Treasurer or may be invested in whole or in part under
29 contract with an investment manager, as determined by the board.

30 (b) Transfers may be made from the program fund to the
31 administrative fund for the purpose of paying operating costs
32 associated with administering the Scholarshare trust and as required
33 by this article. On an annual basis, expenditures from the
34 administrative fund shall not exceed more than 1 percent of the
35 total program fund. All costs of administration of the Scholarshare
36 trust shall be paid out of the administrative fund.

37 (c) All moneys paid by participants in connection with
38 participation agreements shall be deposited as received into the
39 program fund, and shall be promptly invested and accounted for
40 separately. Deposits and interest thereon accumulated on behalf

1 of participants in the program fund of the Scholarshare trust may
2 be used for payments to any institution of higher education.

3 SEC. 2. Chapter 3.5 (commencing with Section 18900) is added
4 to Part 10.2 of Division 2 of the Revenue and Taxation Code, to
5 read:

6
7 CHAPTER 3.5. DIRECTED DEPOSITS
8

9 18900. (a) A taxpayer may designate on the tax return that a
10 contribution in excess of tax liability, if any, be deposited to the
11 credit of the taxpayer's qualified tuition program, as defined in
12 Section 529 of the Internal Revenue Code, including, but not
13 limited to, the Scholarshare qualified tuition program.

14 (b) The designation shall be allowed only if the designation is
15 a full dollar amount that is in excess of one dollar (\$1).

16 (c) The Franchise Tax Board shall revise the form of the return
17 to include a space to allow the designation permitted under
18 subdivision (a), and any other information that may be necessary
19 to carry out this chapter, including, but not limited to, the
20 following:

21 (1) The amount of the designation.

22 (2) The routing number and account number of the qualified
23 tuition program.

24 (d) If the tax payments and the designation reported on the return
25 do not exceed the tax liability, if any, shown thereon, the tax return
26 shall be treated as though the designation had not been made.

27 (e) The designation authorized under subdivision (a) shall be
28 limited to one qualified tuition program.

29 18901. If a taxpayer designates a voluntary contribution
30 pursuant to Chapter 3 (commencing with Section 18701) and a
31 directed deposit pursuant to this chapter, and the amount in excess
32 of tax liability is less than the total amount designated, the amount
33 in excess of tax liability shall be allocated among the designees
34 on a pro rata basis.

35 18902. The Scholarshare Investment Board shall reimburse
36 the Franchise Tax Board through an interagency agreement for
37 the actual costs incurred by the Franchise Tax Board pursuant to
38 this section to implement and maintain this chapter. The
39 Scholarshare Investment Board shall approve the disbursement of
40 any reimbursements authorized pursuant to this section. *The*

1 *reimbursement by the Scholarshare Investment Board to the*
2 *Franchise Tax Board for costs incurred to implement and maintain*
3 *this chapter shall be made in the same fiscal year in which the*
4 *Franchise Tax Board incurred the costs.* The total costs reimbursed
5 by the Scholarshare Investment Board shall not exceed four
6 hundred seventy-five thousand dollars (\$475,000).

7 18903. This chapter shall remain in effect only until December
8 31, 2014, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before December 31, 2014, deletes or
10 extends that date.